

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

20 August 1974

MEMORANDUM FOR: Members of the Interagency Classification
Review Committee

SUBJECT : Strengthening ICRC

1. At the June and July meetings of ICRC, the matter of the possible need to strengthen ICRC was discussed. At the July meeting papers prepared by the Department of State and Department of Defense in this general area were circulated for discussion.

2. A number of fundamental matters were raised by these papers and discussions. CIA will want to consider these issues with some care as they develop. For purposes of discussion at the August meeting, we offer the following interim suggestions:

a. It seems self-evident that ICRC cannot perform the responsibilities imposed on it by the Executive Order with its present authorized strength of three persons. The decision of the ICRC at the July meeting recommending that NARS budget for a total of ten employees was an appropriate action.

b. We believe the most useful and desirable function which the increased staff could perform would be to improve our procedures in connection with agenda and meetings. In particular, it would be highly desirable to have the agenda issued several weeks in advance to permit careful consideration and staffing within the departments concerned. This would include not only a drawing up of an agenda but preparation of papers with options and analyses of the issues.

c. It would seem inappropriate to establish ICRC inspection teams. An inspection team within and as part of a department or agency could be useful, as the Department of Defense indeed has experienced. But an ICRC inspection team would be limited in size and in time and would be unfamiliar with the organization it was inspecting and would lack the clout of chain of command. Its effectiveness surely would be limited. As an alternative, ICRC could ask departments to inspect and to report the results to ICRC.

agreed

d. We also have difficulty with the concept of assigning departmental personnel to ICRC. CIA, and I am sure all departments, are under manpower ceiling and pressure and we anticipate that these pressures will only increase. Authorizations and appropriations in the name of ICRC would seem the useful and orderly way to acquire personnel.

agreed

e. We believe the suggestion that ICRC be authorized to review agency denials of classified material of less than ten years old could open flood gates which neither the departments nor ICRC could handle. We think it highly desirable that departments accept and entertain declassification requests with respect to documents of that age to the extent that they can and CIA does so. But to establish as a matter of right by what would necessarily be public regulations the requirement that any document, no matter how recent, may be the subject of a mandatory declassification review, almost certainly would become unmanageable in very short order.

not

f. It would seem that the proposal that ICRC be authorized to be a coordination point for OMB for testimony and comments on bills for all agencies

would put an unnecessary and time-consuming layer between the departments and OMB. Informal coordination by ICRC members in these areas of course is appropriate and indeed was done with respect to the recent Muskie and Moorhead hearings. An expansion of ICRC authority in this area indeed might absorb all of the increased staff recommended at the July meeting.

*mid
operation*

g. It would seem unlikely that ICRC activities would serve to resolve issues that might otherwise go to the courts. It was suggested that one such area where this might be the case would be that ICRC could decide whether proper classification procedures have been followed, thus removing the necessity to try this issue in court. While any dissatisfied claimant of course might discontinue his efforts after a decision against him by ICRC, it seems more likely that an ICRC performance in this area would simply delay referral to the courts for ultimate solution and would unnecessarily burden the parties, both the requestor and the department involved, with prosecuting the issue through the ICRC procedure.

h. The suggestion was made that if ICRC is not strengthened the President should establish a new body with additional functions and that this committee would not be under the National Security Council but would report directly to the President "so that there is no confusion between responsibility of the National Security Council to protect security information and the responsibility of this new body to maximize public disclosure." The effect of this arrangement would be to put NSC and the defense and security agencies in conflict with the new organization, with any disputes

agreed

and disagreements requiring resolution by the President. Almost surely the President would find it necessary to delegate this authority or to require additional staff assistance concerning the exercise of it. The primary purpose of E. O. 11652 is to provide protection for national security information. The secondary purpose is to make certain that necessary protection does not serve to unnecessarily or improperly deny access. These are conflicting objectives concerning the same body of information. Clearly, an organization or an individual should be charged with considering information against both of these standards and surely these matters would warrant the President's attention only in rare instances. The departments and ICRC now attempt to apply both requirements of the Executive Order. ICRC should remain an NSC subsidiary.


i. ICRC, by the Executive Order, is a subsidiary body of the National Security Council. Other than by the issuance of the NSC Directive of May 17, 1972 which implements the E. O., NSC has not played a part in ICRC matters nor has ICRC reported it. Perhaps in the future ICRC should submit its reports to the NSC and should seek instructions and assistance from that Council.

j. We agree that reporting requirements could be adjusted so that the value and usefulness of the reports would be commensurate with the work of their preparation.

Bill

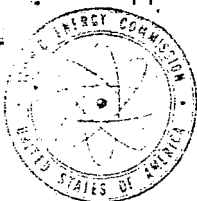
agreed

agreed

for  JOHN S. WARNER
General Counsel

STAT

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
UNCLASSIFIED		CONFIDENTIAL	
		SECRET	
OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	C/ISAS	10/7	Rsg
2	2E-42 c/c PB		CS
3			
4			
5			
6			
	ACTION	DIRECT REPLY	PREPARE REPLY
	APPROVAL	DISPATCH	RECOMMENDATION
	COMMENT	FILE	RETURN
	CONCURRENCE	INFORMATION	SIGNATURE
Remarks: <p>Attached are copies of the several papers submitted to ICRC by State, Defense, CIA, and AEC concerning the functions and future of ICRC.</p>			
FROM		TO SENDER	
		NO.	DATE
			10/4/74
UNCLASSIFIED		CONFIDENTIAL	
		SECRET	



UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

September 13, 1974

Mr. William L. Brown
Executive Director
Interagency Classification
Review Committee
Room 604
National Archives Building
8th and Pennsylvania Avenue, NW
Washington, D.C. 20408

Dear Bill:

Following the August meeting of the ICRC we reviewed the discussions concerning the question of whether the ICRC needs to be strengthened, and the various written comments by other agencies. As indicated in the August meeting, the AEC believes that the ICRC requires additional staff in order to carry out its responsibilities under the Executive Order and the NSC Directive. We are generally in agreement with the fundamentals set forth in the CIA's memorandum of August 20, 1974 but believe that it is appropriate to forward you our specific views.

It is recognized that the structure and professional makeup of an adequate staff for the ICRC must await a full "in house" examination of the responsibilities and the functions of the ICRC with such assistance as the Committee can render. There is no doubt that some augmentation perhaps on the order of ten people should be initiated now. Certainly you need secretarial and clerical assistance to prepare papers for the ICRC meetings and to collate and forward to the Congress such things as Departmental Quarterly Reports.

We are aware of your early recognition after joining the ICRC staff of the necessity to improve its procedures in connection with the agenda and minutes. We are in complete accord with the CIA in their comments that it would be exceedingly useful, if when the agenda and discussions concerning the meeting are forwarded to the departments, they could be accompanied by an analysis of the issues and options, and where possible, even a review of the preliminary thoughts of the staff within the departments of primary concern.

The ICRC staff is in a unique position for the review, collation and comparison of the data supplied by the various agencies in their Quarterly Reports, and indeed should do so. Certainly the ICRC should not be merely a filing facility for the Quarterly Reports, but it should have the capability to critically analyze them, from a number of points of view, some of which are enumerated below. We would hope that the following suggestions on what the review of the Quarterly Reports should encompass will provide you with support for your staffing requests:

Mr. William L. Brown

- 2 -

September 13, 1974

- a. an examination of trends, such as, whether the number of classified documents being generated by an agency has declined without an accompanying decline in authorized classifiers. This is not to say that some agencies may not still need the same number of authorized classifiers even though they are classifying smaller numbers of documents owing to a wide-spread organizational structure. At the same time, it is also possible that a decrease in the number of classified documents being generated would permit a reduction of the number of authorized classifiers within an individual unit;
- b. the formulation and levying of appropriate inquiries to the various agencies as a result of the preceeding analysis;
- c. an examination to determine whether, (1) the reports are producing useful data particularly in relation to the cost to the agency of developing them, (2) whether the reports require restructuring; for example, would a different breakdown be more indicative of what is going on in an agency, or (3) whether an entirely different report might be more useful and more economical. (We fully recognize the value of estimates of total numbers of classified documents generated. However, it should be noted that the manpower cost in expanding overall total numbers to numbers in specific categories, e.g., XGDS, ADS, etc., increases by more than a linear function and is estimated to require an expenditure of manpower of at least an order of a magnitude greater for 3 or 4 categories of breakdown. We commented on August 28, 1973 to the effect that a critical analysis of our Data Index System input would provide us with some of the same and indeed more useful information than was obtained from the Quarterly Summary Report without incurring an additional expense. We note by their comments that some of the other agencies appear to share our concerns in this regard.)

With regard to ICRC inspection teams we agree with the CIA that they would appear to be inappropriate in the context normally attributed as being the function of an inspection team. On the other hand, we would suggest that the ICRC use professionals who could effectively review with, and discuss with, departmental staffs their agencies compliance with Executive Order 11652 and its implementing NSC Directive. We can foresee several beneficial aspects of such reviews. Indeed the task of the Ad Hoc Group on Exemption Authority and Classification Guidance might have been easier, if the ICRC staff had been examining the various ways in which the agencies used classification guidance (including the granting of blanket authorization for the exemption of categories of information so that any authorized classifier could grant an exemption to a specific document pursuant to the authority of an appropriate TS classifier). Such reviews by the ICRC staff could also include the examination of the

Mr. William L. Brown

- 3 -

September 13, 1974

inspection reports by the departments' own inspection teams from the standpoint of determining the adequacy of the departments' monitoring of the implementation of the Executive Order by their personnel and also in order to gain a better understanding of the specific situations facing each agency in the implementation of the Executive Order. For example, an operational agency such as the Department of Defense or the AEC must classify and control thousands of fabricated items during the manufacturing process and this presents a particularly difficult problem with regard to the requirements to index all exempt material. On the other hand a strictly staff type agency which deals only with paper and ideas has less problems. Thus the exception clause in Paragraph 6 of the Letter of Instruction dated January 15, 1973 on the Data Index System becomes far more important to an operational agency.

With regard to the assignment of departmental personnel to the ICRC, we note that in addition to the problems of individual manpower ceilings as raised by the CIA there is also the problem of whether a person on detail is ever completely divorced from his own agency. We believe that staff belonging to the ICRC would be more desirable both from the standpoint of conflict of interest as well as to provide assurance that an adequate personnel ceiling authorization will continue.

We firmly believe that the ICRC should not review agency denials of classified material less than ten years old. We mention it here only to recognize that the ICRC does require staff to handle the many details associated with the ICRC's appeal procedure role in the mandatory review of ten year old documents.

Similarly, although the function of the ICRC should include assistance and informal coordination among the ICRC members of their individual testimonies before Congressional hearings in appropriate cases and their comments on relevant Congressional bills, we agree with the CIA that to place the ICRC as a coordination point for OMB in this regard adds an undesirable time-consuming layer between the departments and OMB and we can perceive no usefulness in such a direct role.

We are not only interested in increasing the ICRC staff, but in strengthening the ICRC itself and agree with the CIA that a new body with additional functions is unnecessary and inappropriate. We believe that the ICRC has enjoyed good rapport with the Moorhead and Muskie subcommittees. We believe too that the Committee is functioning, and has begun to bear fruit.

We consider that in view of the many differing facets of classification and security facing the various agencies, only a strong organization with the interagency structure of the ICRC can adequately perform the functions that have been assigned to it. In our judgment these functions are consistent

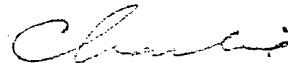
Mr. William L. Brown

- 4 -

September 13, 1974

with the substance and intent of the majority of the bills now being considered by the Congress and that through their exercise the ICRC can accomplish the effect that the Congress is attempting to obtain.

Sincerely,



C. L. Marshall, Director
Division of Classification